Dear Howard, 3/25/77

Your letter of the 22d and the enclosed Tom Kelley memo of 2/13/69 are more important than you think. You have forgotten some things, not mentioned others I think you did not forget, and there are other considerations I must keep in mind.

As you may remember for a long time I have told Jim that if he faces a conflict between my interests and those of the FOIA to resolve them in favor of what can be of most use in preserving and protecting FOIA. I mean this. I believe this Act epitomizes the basic American belief and is essential to any kind of decent, representative society. Unlike others, especially those parti pris in government, I believe it is one of the assurances of a healthier government and a more honest one. So there is this interest.

There is also the Kennedy family interest. You know I do not mean this in a sense of personal and blind loyalty for I do not. Rather am I more concerned with what this reflects of the continuing official efforts to accomplish several things: intimidating Kennedys; blaming them for suppressions of evidence; and more recently alleging that they are responsible for the assassination because it is a Castro kickback and John and Bobby were responsible for that. (This is one of the reasons I so yearn to be able to return to Tiger to Ride.) While I have no personal knowledge my own and much earlier inquiries convince me that for a year prior to the JFK assassination the assassination of Castro was not a Kennedy policy. Rather do I believe the opposite. Unfortunately it is not possible for me to get those on Bobby's staff at the time to talk to me, even trust me. I no longer even try.

Partly as a reminder to you and partly for other purposes I'll trace this a little. One other purpose is that I feel obligated to send a carbon to someone on whom you and Jim as my executors know but is otherwise secret. This was not a restriction imposed upon me. It is my own desire as well as belief that it is necessary. At some point it may be important for me to have this record of being secure and dependable because it may be in the interest of one who is vulnerable to feel that I can be trusted.

What you are into is a pretty seedid official business.

It is not self-serving to note that the representation of my writing is baseless. I have never been a conspiracy theorist. While to keep going I have to vent my ~~passion~~ passion and I have no editor to clam the writing down the only theoretical expression I can recall in all my published work is on an Oswald-intelligence connection. The very first words in my very first book could not be more opposite the representation of these characters, now I suppose legally conspirators.

This is your work and I can't tell you how to use or not use it. But I do want you to be aware of something much more serious than Kelley suggests about conspiracy theories: this memo can be used by the Lanes and other whores and nuts to allege a government conspiracy to kill JFK. A real case can be made out without it so with it I shudder to think of what the irresponsibles can do. Especially now that Lane has a six-figure deal on a book that says the FBI killed King. Unless he has backed off. The book has been delayed a month. It is now due in May. Anyway, I am encouraging you to do nothing public now. Rather do I suggest that you persist in your searches and correspondence. I combine a recommendation with a reminder.

You remember correctly that I did discuss this with Meeds during a recess in La.v. Shaw in early 1969, before the memo. What you do not request is that I made an earlier request in writing. Here is that story.

The first hearing on Garrison's efforts to get the autopsy material and other evidence for his trial was in December, 1968. It was on a Friday. By then my disagreements with Garrison had become many and strong. I agreed to be a consultant expert on this in the hope it might diminish more insanities. Numa Bertel, an assistant DA, came up the day before. I met him at the airport and brought him here. We were at supper when Jud Fensterwald, who was Washington counsel, phoned and told us to pack our toothbrushes, to expect to spend the night with him. The DJ had pulled one of its regular dirty tricks, causing the court it had provided reporters [illegible]

Somehow someone knew this and phoned Bud to tell him and to offer him a copy of the papers supposedly given to him but in fact withheld. Bud drove to get them while I drove Luma and myself to Bud's home. We divided it in two because there was an unusual legal situation I could see. Bud had his then partner with him and they agreed that the situation permitted putting me on to testify as an expert - on the Archives and the subject. So we divided it in two. Bud and Luma after the partner left wroked over the government legal arguments and I annotated the panel report. This was our first knowledge of it.

We worked until about 3 a.m. I do not recall whether I spoke to Rhoads that day or not. I do recall that I did the next hearing, after the first of the year and well before the date of the Kelley memo. First I was angered by the crazy Garrison carryings on and told them all where to go and cancelled my reservations for two days later, a Sunday, to go down and help them prepare the non-Shaw part of that prosecution. Then Alcock and Al Oser and two other lawyers phoned me on a conference setup and explained that Garrison was out of town and it was all that nasty Charlie Ward's doing. (I later became convinced this was false. But I kept my word and did go, loaded with records for them. That day, by prearrangement, I spent with Oser and his assistant, until 5 p.m., when they pooped out. When I left I told them they would lose the case, that they should lose it, and what later turned out to be exactly the jury reaction, why they would lose it. That night I wanted to go to work on the panel report, making extensive notes. It was a hell of a fight to get Bertel to give it to me. It was January and the night got cold. After I got Alcock to order him to do it Bertel kept me waiting on a windy and cold street corner for several hours. I recall all this very clearly. That night I began preparing what was first to be Lyril's testimony, then became Part II of Post Mortem.

Time is returning better. That was the Sunday before the opening of the trial. Garrison had a nutty notion that by beginning the trial the day Nixon was inaugurated it would somehow pressure Nixon. So that was January 19,1969. The next morning I went to Garrison's office to work. I used part of Sciambra's office. On an old typewriter in it I wrote a formal, written request for the memo of transfer. January 20. You have a copy. So I did make a formal, written request more than a month before the wretch Rhoads told the others that if I got wind I would. I am also pretty certain that our in-court conversation was before the date of the Kelley memo. As I recall Halleck gave the government three weeks. This would have been about two weeks before the Kelley memo.

Now even for the Rhoads we have come to know and not to love this is pretty dirty stuff. Look at all those top government people from all those agencies he was deceiving deliberately. He was also deceiving gx them over the entry 9. If you look at what was not there you know that the question is not wild conspiracy theories byt the disappearance or seeming disappearance of the most essential evidence, evidence the Commission and I suspect the FBI never had. Not that all did not know it the need for it and of the existence of it. Not just the cannister with the brain. More important such things as the tissue slides. Interest in withholding this from the Commission was not Kennedy interest. It was the interest of those who were the obfuscators, thoose who covered up the actual fact of the crime.

Two reminders: the official story is that no tissue was removed for slides from the anterior neck wound and the autopsy was rewrittrn beginning after Dr. Humes knew Oswald had been killed. Now I'm reminding you that my own medical interviews in Dallas leave no doubt that they took the anterior wound as one of entry and it bore the visible indications of an entry wound. So, Bethesda knew the need to remove tissue and make slides. The tracheostomy did not destroy any tissue. This is conjectural as an explanation but not to be ignored. it does represent the beginning official covering up.

This Kelley memo may be unfair to the Secret Service because of my later dealings with them. But it may be that they lied to me. Or had a deal with Rhoads and DJ to get me off their backs. You will recall that after about 100 days Rhoads turned me down on a series of spurious representations. Thereafter I went to the Secret Service on this because they were the agency of paramount interest and I asked for their copy, not the one Rhoads had. Theyx invited me in. We reached an immediate accomodation and I agreed not to file an FOIA action against them. They elected to give the memo of transfer to me through the Archives instead of diectly. Rhoads intercepted it, got together with DJ and DJ told the

SS to sit tight. If the SS had gotten rid of its only copy there was nothing I could do. Kelley's secretary did tell me of his sending it to the Archives (I've never been able to get the covering correspondence) so I had doubts about filing against SS. I also did not want to have to file, period, because I was aware of the anti-Kennedy misuses possible. As with Rhoads denying me the CSA-family agreement and then giving it exclusively to Graham, whose misuse was automatic from the nature of it.

What Rhoads really did was to create a situation in which exactly that he pretended horrified him was virtually certain. He did this by denying me first-use, even if they did, finally, give me some of it after Jim was ready to file a complaint. By that time all the nuts, commercializers and anti-Kennedyites had gotten wind of it. Just recall the misuse, the gross and indecent misuse, Wecht made at the press conference Bud, he, Boling and McDonnel had at the University Club.

I know of no record that is a genuine cause of Kennedy embarrassment. I know that the Rhoads behavior with them manufactures the embarrassments. I do not believe this is accidental. So with this, combined with what he withheld that says other than he wanted said, Rhoads saw to it there would be improper use, misuse by anti-Kennedyites. Have you any idea how many paid speeches Cyril alone made with that impassioned line, "Clime that brain?" How may radio and TV shows? And all the nuts picking it up?

Rhods' record is even worse. We had a hassle and he agreed that I had asked for all autopsy and medical evidence and that I would get it as it is released. He then held all these records back before denying them when I learned of them and made requests. All this assured is that the first use would not be in context and that angled use against all Kennedys was certain.

I think you now have other memos that can shed some light on this. I believe they say that Lobby did not have possession and did not make the delivery. This is like the receipts involving Burkley. He did not have possession. The Secret Service hid itself in this way, having him on the records. I'm sure that even th list was typed up by a Secret Service agent. Not even one of their typists. And not by Burkley.

It is not necessary to assume the business about two original autopsy reports, fascinating as that is. It is possible the original was removed from the locked box and deposited separately. But there is no do bt I held the originals in my hands. If I can find the color pix I got just for historical purposes they will establish this. The holograph was on blue-lined white paper. The body chart was on a mimeographed sheet. The stains of fluids were quite visible. Etc.

There is more but I now do not have time for it. Heavy mail and people due here in an hour. I would suggest that you carry this forward rather openly. Tell them that you have had access to my files, etc when you ask for what they still withhold. If they raise privacy questions send me a release to sign, made out to you only. We do not want the commercializers to latch on. I'd be inclined to hold off on going farther on the line of a former Commission counsel in the DJ Office of Legal Counsel and influencing their decisions to cover the Commission and incriminate Kennedys, esp. Lobby at the beginning. I'd ask each of the agencies for its memos and other records on this and all that is relevent to it. Harding is a nasty in this. By mistake I was once sent the wrong copy. All my correspondence was referred to him in CSA. This is probably part of what accounts for the long period in which any response required about two or more months. Garfinkle now figures in FOIA matters that are open. It is he who told Jim they'd decline to produce the tie, etc. I do not yet know what the story on this is. No word from Jim today. When the AUSA tried to con Jim, Jim told him to file a motion to quash. It is Jim's belief that the counterproductiveness of this has finally dawned on at least him. We should have been in court today if they were going to do this. We depose Monday, or the next working day. As I wrote Jim when I asked him to add these things to the subpoena, I believed that if they thought about it they'd realize their interests is in not attracting attention to it all. They know by now that I'm keeping a low profile Of course I regret the day I had to take to rough out the testimony I would have to give.

With breaks and handled properly and better if all can be combined this may provide

a means of opening up the cancer cleanly and without the possibility of those of vested interest turning it around or corrupting it into more of the indecent effort to blame all that is wrong on the survivors.

As I recall what you sent earlier it indicates that DJ worked on Burke Marshall via Rochman, with whom there seems to have been a friendship. Marshall may be a nice guy but with him as a friend no Kennedy needs enemies. I would address no requests to him. He'd consult Rhoads and do what Rhoads says. I've been down that road.

The language of Kelley's memo is horrifying. It strongly suggests that they knew what they were doing, knew what they were covering up.

Please be alert to something else as you pursue this. I have a long-overdue FOIA/PA request of the Secret Service. The same Goff personally wrote me that there are no files. For almost two years, beginning prior to this, I've been waiting for him to clear a record they provided CIA. CIA told me of it to make itself look better. Even giving SS file numbers has meant nothing. I wait for the first piece of paper from them.

There is now other and visible explanation of this incredible stonewalling: they know the inferences of subversion were fabricated by the paranoidal spooks.

I'd not let on you know of this FOIA/PA request I've made. Just that you have had access to my files in the past.

This is not the only record I now have of a lawyer saying there is no legal way to withhold followed by continued withholding. I have one DJ layer's letter in which he said first deny him and then try to find some reason. This on going. He was more extreme than the FBI, with which he conferred. The GBI was wiser. They played the clock, their power and the certainty there would be no punishment.

You are correct on the legislative history. You asked about embarrassment being a reason. In the House or Senate reports of 1966, maybe both, this is explicit and explicitly said not to be a basis for withholding. As I recall it also said this was generally the real reason but another was invoked.

Jim won't know about this until I see him Monday.

Many thanks. Keep up the great work.

Best,